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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,023	04/14/2004	Masahiro Nishio	FUKAP0100US	5998

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EXAMINER

WATSON, JOY L

ART UNIT	PAPER NUMBER
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1792

MAIL DATE	DELIVERY MODE
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12/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/824,023

Applicant(s)

NISHIO ET AL.

Examiner

Joy Watson

Art Unit

1792

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 November 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

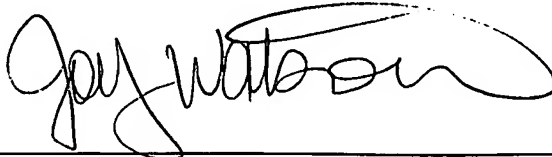
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
Please see attached.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.



/Joseph L. Perrin/
Joseph L. Perrin, Ph.D.
Primary Examiner - Art Unit 1792

There was no amendment to the claims with regards to the correspondence dated November 28, 2007.

Response to Arguments

Independent Claims

In response to applicant's argument that the prescribed time period is a structural limitation of the controller (p. 2-3 of correspondence dated 12/10/2007), it is noted that applicant argues *configured language*, but *configured language* is not used in the claims. In applicant's claims *wherein language* is used which does not limit a claim to a particular structure. (See MPEP 2106) Additionally the examiner notes that claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danly*, 263F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). "[A]pparatus claims cover what a device is, not what a device does." *Hewlett-Packard Co. v. Bausch & Lomb Inc.*, 909 F. 2nd 1464, 1469, 15 USPQ2d 1525, 1528 (fed. Cir 1990). (emphasis in original)

In response to applicant's argument that the combination of Totterdell and Ohsugi do not teach applicant's claimed invention, the examiner respectfully disagrees. Totterdell teaches a washing machine, including a drum (3) having an axis of rotation in a direction crossing a vertical direction and a water tank (2) surrounding said drum (p. 3 lines 25-30) comprising: a water level detecting unit detecting level of water in said

water tank (p. 2 lines 12-29); a water feed unit (5) for feeding water to said water tank (p. 3 lines 33-34); and a control portion operating said washing machine for washing (p. 4 lines 6-9); it does not teach that the control portion detects the water level for a prescribed time period and thereafter turns off the power supply. Ohsugi teaches a pressure switch which detects a water level in a washing tub (col. 3 lines 62-64) and a power source switch that is in the off condition after about five minutes from the finish of all washing processes (col. 6 lines 5-10) in order to conserve energy. Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of turning off the power supply to the washing machine (inherently turning off power to the controller) after the washing operation is completed as taught by Ohsugi to improve the washing machine of Totterdell for the predictable result of detecting water with the water detecting unit for a prescribed period of time then turning the control portion off. A prescribed "time period set in accordance with a time period calculated from a minimum flow rate of water fed from said water feed unit and a smallest amount of water detectable by said water level detecting unit" is not required to be calculated by the controller. The time period could be entered manually and therefore not a feature of the apparatus nor does it further limit the apparatus claim. The time period is a feature of the use of the apparatus.

In response to applicant's argument that the references (Totterdell and Ohsugi) fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the residual water level is monitored after even the drain part of the

cycle is completed") are not recited in the rejected claim(s). The claims state "when said washing is completed." The washing is completed before the rinse cycle can occur; therefore, applicant's argument that the prior art does not teach monitoring the water level after the wash cycle is completed is not persuasive. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to combination of Ohsugi and Totterdell applicant argues that Totterdell does not teach applicant's invention of water level detection at the "end of the entire wash cycle" (including the rinse and drain cycle). This argument is not found persuasive for the reason that none of the claims recited that the wash cycle included the rinsing and draining cycle. Applicant and examiner agree that Ohsugi teaches shutting off the power to the washing machine. One of ordinary skill in the art at the time of the invention would have known to shut off the power in order to conserve energy; therefore, it would have been obvious to one of ordinary skill to program the control portion of the Totterdell to switch the power of Ohsugi to the "off" position in order to conserve energy while the machine was not in use.

Dependent Claims

In response to applicant's argument that Dirnberger was applied to the rejection of claim 5 in an unreasonably broad manner, the combination of Totterdell and Ohsugi, specifically Totterdell, teaches sensors that detect the water level. Neither Totterdell

nor Ohsugi teach a lock unit for preventing opening of said door when a water leakage is detected. Dirnberger teaches that the door to the washing machine would be locked when an undesirable or dangerous condition occurs. It is known by one of ordinary skill in the art at the time of the invention that it is undesirable to open a front loading washing machine that contains water and that a dangerous condition (water spilling onto the floor) could occur if the door to a front loading washing machine was opened while water was entering the machine. Locking the door is one method of preventing water this dangerous condition as taught by Dirnberger. Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of locking the door as taught in Dirnberger, to improve the washing machine taught in Totterdell and Ohsugi for the predictable result of locking the door when the water leakage detecting unit detects water leakage.

In response to applicant's argument that Baubin and Nakamura were applied to the rejection of claims 6 and 7 in an unreasonable broad manner, the applicant states that Baubin does not teach "a leakage detecting unit [that] detects a water leakage at said water feed unit". The examiner notes that the leakage detecting unit is taught by Totterdell and is capable of detecting water leakage at said water feed unit by detecting a rise in the water level within the machine. Dirnberger teach locking the door to a washing machine to lock the door when a water leakage detecting unit detects water leakage. Nakarama teach a lock detecting unit which transmits a signal if the door is not properly locked. Baubin teaches responding to an overflow signal by draining

washing liquid from the wash tub. Thus, it would have been obvious to one of ordinary skill in the art to apply the technique of locking the door as taught by Dirnberger, if the door was not properly locked responding to the lock detecting unit of Nakarama by draining the washing liquid from the wash tub as taught by Baubin for the predictable result of having the control portion drain the water out of the washing machine if the lock malfunctions while the water leakage detecting unit detects water leakage.

The applicant does not claim that the leakage detecting unit is located at the water feed unit. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a leakage detecting unit located at the water feed unit) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to combination of Ohsugi and Totterdell (with regards to claims 13-14) applicant argues that Totterdell does not teach applicant's invention of water level detection at the "end of the entire wash cycle" (including the rinse and drain cycle). This argument is not found persuasive for the reason that none of the claims recited that the wash cycle included the rinsing and draining cycle. Applicant and examiner agree that Ohsugi teaches shutting off the power to the washing machine. One of ordinary skill in the art at the time of the invention would have known to shut off the power in order to

conserve energy; therefore, it would have been obvious to one of ordinary skill to program the control portion of the Totterdell to switch the power of Ohsugi to the "off" position in order to conserve energy while the machine was not in use. Additionally it is noted that the features upon which applicant relies (i.e., "the residual water level is monitored after even the drain part of the cycle is completed") are not recited in the rejected claim(s). The claims state "when said washing is completed." The washing is completed before the rinse cycle can occur; therefore, applicant's argument that prior art does not teach monitoring the water level after the wash cycle is completed is not persuasive. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).